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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVEN AMERSON,

Defendant and Appellant.

F078023

(Super. Ct. No. VCF364146)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Tulare County. Brett R. Alldredge, Judge.

Francine R. Tone, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Detjen, Acting P.J., Franson, J., and Snauffer, J.

STATEMENT OF THE CASE

On April 10, 2018,¹ a felony complaint charged Steven Amerson with two counts of resisting arrest with force and interfering with an executive officer's efforts. (Pen. Code, § 69.) On April 23, the first amended complaint alleged the same charges and included the allegation of a prior strike.

On April 30, Amerson pled nolo contendere to the original complaint, with no strikes alleged.

On May 24, the trial court placed Amerson on three years formal probation and ordered him to serve 365 days in local jail. He received credits for time served and was ordered to pay various fines and fees.

On August 24, the court ordered victim restitution of \$1,838.42.

On August 30, Amerson timely filed a notice of appeal from the restitution order.

STATEMENT OF FACTS

A. Underlying Offense.

On April 8, officers contacted Amerson on the side of a road where he was behaving erratically. Amerson began screaming and tried to get into the patrol car. He picked up small rocks and threw them at the vehicle. Officers restrained him.

B. Restitution Proceedings.

The discussion of restitution began at Amerson's sentencing on May 24. The prosecutor informed the trial court that the patrol car had been scratched by the rocks Amerson had thrown and the scuffle that had taken place. The repair estimate was \$1,838.42.

On July 13, the court held a formal restitution hearing and discussed with counsel alternative ways to establish the restitution amount, including the cost to repair and diminution in value. The court indicated it would not grant restitution for the repair cost

¹ All references to dates are to dates in 2018.

if the victim was not going to repair the car. There had been some discussion that the car might not be used because of its age and scratches.

At the continued restitution hearing on August 24, Sergeant Michael Donnelly of the California Highway Patrol (CHP) testified that the patrol car in question was still in use but had not been repaired. Sergeant Donnelly testified that although the vehicle normally would not be repaired due to its high mileage, if the CHP was granted restitution to compensate for the cost of repairs, the CHP would repair the vehicle, which was still in service. He testified that the car would not be repaired until the restitution was received.

Following this un rebutted testimony, the trial court ordered defendant to pay restitution in the sum of \$1,838.42.

STATEMENT OF APPELLATE JURISDICTION

This appeal is from a judgment that finally disposes of all issues between the parties. (Cal. Rules of Court, rule 8.204(a)(2)(B).)

APPELLATE COURT REVIEW

Amerson’s appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that Amerson was advised he could file his own brief with this court. By letter on December 10, we invited Amerson to submit additional briefing. To date, he has not done so.

As the Court of Appeal wrote in *People v. Sharpe* (2017) 10 Cal.App.5th 741 (*Sharpe*): “The trial court has broad discretion in choosing a rational method of calculating the amount of the economic loss suffered by a victim. The goal of direct restitution is to restore the victim to “the economic status quo.” [Citation.] ‘A restitution order is intended to compensate the victim for its actual loss and is not intended to provide the victim with a windfall. [Citations.]’ [Citation.] [¶] Penal Code section

1202.4 addresses victim restitution. It provides that the amount to be awarded as restitution when something is damaged is the replacement cost of the property or the actual cost of repairing it when repair is possible. (Pen. Code, § 1202.4, subd. (f)(3)(A).) Section 1202.4, subdivision (f)(3)(A) provides for restitution consisting of ‘[f]ull or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.’ ” (*Sharpe, supra*, 10 Cal.App.5th at p. 746.)

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The victim restitution order is affirmed.